

December 16, 2016

Mr. Devin Leary
Human & Rohde, Inc.
516 Virginia Avenue
Towson, Maryland 21286

Re: Haile Property at 1503 Providence Road
Forest Conservation Variance
Tracking # 03-16-2378

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on November 17, 2016. This request would allow removal of one of seven specimen trees to develop a residential property as a three lot subdivision. The tree to be removed is a 46-inch DBH tulip poplar in good condition and located in lawn.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of this property. The petitioner is seeking to develop a subdivision. While full application of the law would preclude construction of one of the lots due to the location of the specimen tree, the site is already developed as a single residence, thus beneficial use of the property is being realized. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The need to impact the specimen tree is due to unique circumstances associated with the location of the tree relative to the buildable area rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Granting the variance to facilitate the subsequent development activity would result in two more houses commensurate with current zoning and character of the neighborhood. Therefore, we

Mr. Devin Leary
Haile Property at 1503 Providence Road
Forest Conservation Variance
December 16, 2016
Page 2

find that granting the variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. There are no streams, wetlands or associated buffers on or near the site. Therefore, we find that granting the variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has taken no actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing removal of one of seven specimen trees would be consistent with the spirit and intent of the Forest Conservation Law given that only 0.3 acre of edge forest would be cleared, the 1.2-acre break-even point of forest retention exceeded, and the loss of the specimen tree would be mitigated by paying a fee in lieu to be used in EPS afforestation efforts throughout the County. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. A \$1,868.75 fee in lieu of mitigation for removal of the native specimen tree shall be paid to Baltimore County prior to approval of the minor subdivision.
2. A note must be on all plans stating: "A special variance to the Forest Conservation Law was granted by Baltimore County Dept. of Environmental Protection & Sustainability on December 16, 2016 to allow the removal of one of seven specimen trees. Conditions were placed on this approval including payment of a \$1,868.75 fee in lieu of mitigation prior to minor subdivision approval."
3. This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

Mr. Devin Leary
Haile Property at 1503 Providence Road
Forest Conservation Variance
December 16, 2016
Page 3

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

Vincent J. Gardina
Director

VJG/ges

c. Scott Lindgren, Gerhold, Cross & Etzel, Ltd.
Marian Honeczy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Responsible Party's Signature

Date

Responsible Party's Printed Name